REMARKS

In the Final Office Action dated January 22, 2009, the following rejections are noted: claims 1, 6, 8-12 and 14 stand rejected under 35 U.S.C. § 103(a) over Lavaud (U.S. Patent No. 7,024,682) in view of Vogel (U.S. Patent No. 6,804,262); claims 3 and 13 stand rejected under 35 U.S.C. § 103(a) over the '682 and '262 references in view of Desai (U.S. Patent No. 7,139,247); and claims 4-5 and 7 stand rejected under 35 U.S.C. § 103(a) over the '682 and '262 references in view of the Furuta reference (U.S. Patent Pub. 2002/0073433). In this discussion set forth below, Applicant does not acquiesce to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise.

Applicant respectfully traverses each of the rejections under 35 U.S.C. § 103(a) because the rejections rely upon an erroneous interpretation of the '682 reference and therefore do not teach or suggest correspondence to each claim limitation. The Examiner erroneously alleges that FIG. 3 of the '682 reference corresponds to performing a slow and fast scan of each channel in a list. The Examiner, however, has misinterpreted teachings that relate to three different channel lists as corresponding to a single channel list. In pertinent part, the '682 reference describes a first list of channels for the European DOCSIS mode of operation, a second list of channels for the CCIR frequency and a third list of channels for the UK frequency channels (*see* '682 reference, Col. 7:29-39). The '682 reference goes on to explain that an additional list of channels for the North American DOCSIS standard (Annex-b) can be searched. As such, the Examiner is incorrect in asserting that FIG. 3 teaches correspondence to claim limitations directed to different searches of the same channel list. Applicant also expresses confusion as the Examiner has identified the slow scan as including steps 306 through 316 and the fast scan as including step 310. If step 310 is the fast scan, it is not logical that step 310 is also the slow scan because the various claim limitations are directed to the slow scan being responsive to the fast scan. Thus, it would be circular logic to assert that the slow scan is conditionally implemented in response to results of implementing itself. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

Applicant further submits that the proposed modification of the '262 reference fails to overcome Applicant's previous arguments. In pertinent part, the suggested modification appears to exclude certain channels from a second scan to improve the speed of channel acquisition. Respectfully, this second scan procedure of the '262 reference is only implemented for potential channels added to the channel plan due to positive results of the first scan (*see, e.g.*, Col. 13:53 – Col. 14:37). The '262 reference teaches that the power measurements of the first scan are used to select channels for a subsequent scan. Thus, for channels not found in the first scan, the second scan would not be performed. This does not correspond to the claim limitations directed to performing a slow scan if a channel is not acquired in the first scan. Indeed, it would appear that the '262 reference only implements the second level of scanning for channels identified in the first scan. Accordingly, the proposed combination fails to correspond to each claim limitation.

The further modification of the '262 and '247 references by the '247 reference does not cure the aforementioned deficiencies. The recited combination appears to be a hypothetical use of an AGC lock state or of a PLL/Demodulator lock. The remaining functionality taught would apparently remain substantially the same. Accordingly, the rejections are improper for the aforementioned reasons.

The further modication of the '262 and '433 references by the '433 reference does not cure the aforementioned deficiencies. Moreover, the combination fails to address each limitation. For instance, claim 5 includes limitations directed to determining the frequency of the periodic attempts for the last known good channel using a programmable channel hop depth. The Examiner uses an unreasonable interpretation that effectively ignores the limitation by asserting that the entire list of channels is the channel hop depth. Applicant respectfully submits that this is inconsistent with Applicant's specification, which explains that the channel hop depth is the number of channel frequencies to scan before hopping back to the last known good channel. The interpretation proffered by the Examiner, however, covers the case where no channel hop depth is used and is therefore inconsistent with Applicant's specification. While claim limitations can be afforded a broad interpretation, the interpretation must be both reasonable and consistent with the specification (*see* M.P.E.P. § 2111). Notwithstanding, Applicant has proposed an amendment to claim 5. This amendment is consistent with the above discussion. Applicant respectfully requests that the amendment be entered for the purpose of facilitating prosecution, noting that the amendment is not intended to change the scope of the claims.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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